Health Care Reform Advisory: Emergency Care - Will Health Care Reform Come to the Rescue?

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Americans have come to rely upon, and perhaps take for granted, the availability of emergency medical services. The local hospital emergency department serves most urgent medical needs arising from injury or illness, while trauma centers address these issues and more serious injuries. Emergency departments and trauma centers play a key role in issues of public health and national security, be it in response to a pandemic or other disaster.[1] However, the United States' system for the delivery of emergency medical services, in particular trauma center services, faces challenges in the areas of funding and reimbursement, access, coordination of services, geographic/regional disparity, and the ability to respond in the event of a pandemic, disaster or other catastrophic event. Both the House and the Senate health care reform bills, in varying ways, attempt to address these and other issues. As a result, any final legislation likely will create opportunities for facilities and states to capture funds that will benefit both providers and patients.

Grant Programs

Both the Senate bill[2] and the House bill[3] establish a number of grant programs to fund programs or pilot projects that meet specific criteria. The Senate Bill directs the Secretary of the U.S. Department of Health and Human Services (the Secretary) to establish a number of targeted programs. These include grants to qualified public trauma centers, non-profit Indian Health Services trauma centers, and urban Indian trauma centers. The Senate bill appropriates an additional $100 million for each of fiscal years 2010-2015 for grants to states for use in promoting access to trauma care provided by trauma centers and trauma-related physician specialties.[4]

The House bill, likewise, provides for grants to trauma centers, but includes more specific direction for the Secretary in awarding grants.[5] It requires the Secretary to establish a trauma center program that will award grants to support existing trauma centers, including emergency financial relief, to assure the continued availability of trauma services and sufficient capacity. Only facilities "verified" as a trauma center by the American College of Surgeons, or designated as a trauma center by the applicable state health or emergency medical services authority, may receive this funding. The House bill further addresses access through grant awards to local governments, as well as public or private non-profit entities, to establish new trauma centers in

urban areas with a substantial degree of trauma resulting from violent crime. The House bill prioritizes aid to level III and level IV trauma centers in rural or underserved areas, and level I and level II trauma centers in urban areas. Criteria for grants to both existing and new trauma centers require the Secretary to give preference to centers that, for example, have state financial support, are located where need outpaces availability, or are located in an area substantially affected by a natural disaster or other catastrophic event. Trauma centers that can hit the ground running on the date the grant is submitted also will receive preference. Grant recipients will receive payments over a three-year period, with $100 million appropriated for fiscal year 2011, and other amounts as necessary through fiscal year 2015.

Coordination of Services

Both bills recognize that regional coordination of emergency services is necessary, both for emergency preparedness and the efficient delivery of quality care. The Senate bill calls upon the Secretary, acting through the Assistant Secretary for Preparedness and Response (an existing post), to award contracts or grants to further innovative system models for regionalized emergency and trauma services.[6] Following completion of the pilot project, recipients must file with the Secretary a written report of findings, which the Secretary will make available to the public and to Congress. The Senate appropriates $24 million annually for fiscal years 2010 through 2014 to support such pilot programs. Additional funds for this period will be appropriated to support emergency medical research, including pediatric emergency medical research to be conducted by federal agencies. The Senate bill extends Medicare bonus payments for ground and air ambulance services in certain rural and other locations through December 31, 2010.[7]

The House bill calls upon the Secretary to establish an Emergency Care Coordination Center (ECCC), and requires the ECCC to appoint an advisory Council of Emergency Care (appointees to be qualified employees of federal government agencies and departments) to promote and fund research and other activities designed to enhance local, regional, and state emergency medical system preparedness, effectiveness, and coordination.[8] The House bill directs the Secretary to award at least four multi-year contracts or grants to state or local governments to support demonstration projects in this area.[9] It also specifically includes dental emergency responders as part of the National Health Security Strategy, and provides that training programs for dental emergency responders may be conducted at federal dental health facilities.[10] The House Bill makes clear that dental personnel, agencies, and authorities are “emergency response providers” and provides that the Chief Medical Officer of the Department of Homeland Security serves as the primary point of contact with both the dental and medical communities.[11]

Training for Responders

The House Bill contains specific provisions to train veterans with military emergency medical training further to become licensed or certified EMTs, through grants to states that can demonstrate a shortage of EMTs.[12]

"Grant Preparedness"—Plan Now

While the content of the final health care reform legislation remains to be seen, it is clear that Senate and House legislators have identified the improvement, coordination, and regionalization of emergency and trauma services as a top priority. Even if the specific criteria set forth in the House bill are not included in the final legislation, they may be good indicators of what the Secretary would consider in structuring grant programs. Hospitals and states should begin to analyze the needs of their regions, including how they could work with state, local, and regional providers, and how they might design innovative models for the enhancement of emergency and trauma care. Those who do so now will be in the best position to quickly apply for and receive grant funding for pilot projects and other purposes.

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Endnotes

[1] *See* The Pandemic and All-Hazards Preparedness Act, Pub. L. No. 109-417, § 103 (2006) (codified at 42 U.S.C. § 300hh-1) (calling for the Secretary to develop a national health security strategy); *see also* Jessica Zigmond, *Sebelius Announces Health Security Strategy*, ModernHealthcare.com (Jan. 7, 2010).

[2] H.R. 3590, 111th Cong. (as passed by Senate Dec. 24, 2009).

[3] H.R. 3962, 111th Cong. (as passed by House of Representatives Nov. 7, 2009).

[4] H.R. 3950, 111th Cong. § 3505.

[5] H.R. 3962, 111th Cong. § 2551.

[6] H.R. 3950, 111th Cong. § 3504.

[7] *Id.* at § 3105.

[8] H.R. 3962, 111th Cong. § 2552.

[9] *Id*. at § 2553.

[10] *Id.* at § 2555.

[11] *Id.* at § 2556.

[12] *Id.* at § 2554.

For further information regarding this or any issue related to Health Care Reform, please contact one of the attorneys listed below or the Mintz Levin attorney who ordinarily handles your legal affairs.

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